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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,460	07/14/2005	Paul David Sherring	PABE200001	1462

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EXAMINER

BENNETT, ZAHRA I

ART UNIT PAPER NUMBER

2875

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/542,460

Applicant(s)

SHERRING, PAUL DAVID

Examiner

Zahra Bennett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-15 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/14/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACITON

Claim Objections

Claim 1 is objected to because of the following informalities: Claim 1 contains the word "protruberant" in line 8, examiner assumes that this is a spelling error and should be changed to "protuberant". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Chien (US Patent 5,806,960).

With respect to claim 1, Chien teaches an electroluminescent position indicator for mounting on a helmet, the indicator comprising a body (Figure 1: 1),

an electroluminescent light source (4) including at least a first electroluminescent portion (4),

power supply (9) for powering the light source,

and releasable attachment means (17, see Column 5, lines 23-29) for mounting a base portion of the body on the helmet (Column 1, lines 14-25);

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characterized in that the body includes a protuberant diffuser (2, see Column 5, lines 33-44),

and at least part of the light emitted by the first electroluminescent portion is distribution through the diffuser (Column 5, lines 33-44).

With respect to claim 2, Chien teaches that the diffuser (Figure 1: 2) defines a cavity (behind 2) containing the light source (4) and the power supply means (9).

With respect to claim 12, Chien teaches that the attachments means (Figure 1: 17) are arranged so as to detach (by means of 17", see Column 5, lines 23-32) the indicator from the helmet in the event of an impact.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien ('960) as applied to claim 1 above, and further in view of Daniel (US Patent 4,667,274).

With respect to claim 3, Chien teaches a reflector provided for distributing light from the first electroluminescent portion over the diffuser. Chien does not teach that the reflector is convex. Daniel teaches a convex reflector (Figure 2: 28, see Column 3, lines 55-63) provided for distributing light over the diffuser (40, Column 6, lines 10-12). It would have been obvious to one of ordinary skill at the time of the invention to have a curved reflector on the device of Chien for the benefit of providing uniform light distribution, as taught by Daniel.

With respect to claim 4, Chien teaches that the reflector (Figure 1: 16) defines a cavity (behind 16) containing the power supply means (9).

With respect to claim 5, Chien does not teach that the diffuser defines a cavity containing the reflector. Daniel teaches a diffuser (Figure 2: 40, Column 6, lines 10-12) defining a cavity containing the reflector (28), and includes a peripheral margin (16) which is attached to the base portion (Figure 3: 20) is mounted on the helmet (Figure 1: 2), the peripheral margin (40) of the diffuser lies adjacent the helmet; and in that the reflector includes a peripheral margin which is arranged adjacent the peripheral of the diffuser (Column 4, lines 9-11) such that substantially the entire visible area of the body when mounted on the helmet is illuminated (Figure 1, see Column 1, lines 50-56). It would have been obvious to one of ordinary skill at the time of the invention to have the diffuser define a cavity containing a reflector on the device of Chien for the benefit of providing uniform light distribution, as taught by Daniel.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chien 9/1, 9/2) or Chien and Daniel (9/3-5) as applied to claims 1-5 above, and further in view of Kotary et al. (US 6,554,447).

With respect to claim 9, Chien and Daniel do not teach that the base has a curvature between 90mm and 490mm. Kotary teaches a base portion that has a radius of curvature between 90mm and 490mm (Column 3, lines 31-38). It would have been

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obvious to one of ordinary skill at the time of the invention to have the base of Chien include a curvature between 90mm and 490mm for the benefit of conforming to a device, as taught by Kotary.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien, Daniel, and Kotary as applied to claims 1-5 and 9 above, and further in view of Chien 5,806,960.

With respect to claim 10, Chien, Daniel, and Kotary do not form an elongate band. Daniel teaches the diffuser (Figure 1: 40) forming an elongate band (10) with a front end and a rear end (16), and in use the band extends along a side portion of the helmet such that the front end is adjacent a front portion of the helmet (Figure 1), and the rear end is adjacent a rear portion of the helmet. It would have been obvious to one of ordinary skill at the time of the invention to have the device of Chien form an elongate band for the benefit of conforming to the helmet, as taught by Daniel.

With respect to claim 11, Chien teaches that the front end (Figure 1: 2) is visually distinct from the rear end (1).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chien ('960) as applied to claim 1 above, and further in view of Dugmore (US Patent 6,457,838).

With respect to claim 13, Dugmore teaches that the attachment means includes cooperating magnetic elements associated respectively with the base portion of the body and with the helmet (Figure 6, see Column 3, lines 5-9). It would have been obvious to one of ordinary skill at the time of the invention to have a magnetic attachment means on the device of Chien for the benefit of detachably mounting the device, as taught by Dugmore.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chien and Daniel as applied to claims 1-5 above, and further in view of Chien (US Patent 5,479,325).

With respect to claim 14, Chien and Daniel do not teach a flexible seal. Chien ('325) teaches a flexible seal (Figure 10: 45 and 46) which in use conforms to the contours of the helmet (Figure 1: 18). It would have been obvious to one of ordinary skill at the time of the invention to have the device of Chien include a flexible seal for the benefit of conforming to the helmet, as taught by Daniel.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chien and Daniel as applied to claims 1-5 above, and further in view of Appiah (US Patent 6,752,510).

With respect to claim 15, Chien and Daniel do not teach that indicators are arranged on opposite sides. Appiah teaches indicators (Figure 1: 32, 34, 36) are arranged on opposite sides of the helmet (20). It would have been obvious to one of

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ordinary skill at the time of the invention to have the indicators of Chien arranged on opposite sides for the benefit of increasing the visibility of the user, as taught by Appiah.

Allowable Subject Matter

Claims 6-8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zahra Bennett whose telephone number is 571-272-2267. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on 571-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ZB



RENZE LUEBKE
PRIMARY EXAMINER